

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

ALONZO E. BANKS, SR.,

Plaintiff,

vs.

CAROLYN W. COLVIN,  
Acting Commissioner of Social  
Security,

Defendant.

CASE NO. 1:15-CV-765

OPINION & ORDER  
[Resolving Doc. [18](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Plaintiff Alonzo E. Banks, Sr. applied for Supplemental Security Income (“SSI”) and Disability Insurance Benefits (“DIB”) due to sleep apnea and headaches.<sup>1</sup> After his applications were denied,<sup>2</sup> Plaintiff requested that an Administrative Law Judge (“ALJ”) evaluate his applications.

Plaintiff testified at an administrative hearing on August 20, 2013.<sup>3</sup> The ALJ determined that Plaintiff was not disabled within the meanings of the Social Security Act.<sup>4</sup> The Appeals Council denied Plaintiff’s request for review.<sup>5</sup>

Plaintiff filed this complaint on April 20, 2015.<sup>6</sup> Consistent with Local Rule 72.2(b)(1), the Court referred the matter to Magistrate Judge James R. Knepp, II. Magistrate Judge Knepp issued a Report and Recommendation, finding the ALJ erred because he did not apply the correct

<sup>1</sup> Doc. [12](#) at 187.

<sup>2</sup> *Id.* at 107-20.

<sup>3</sup> *Id.* at 28-64.

<sup>4</sup> *Id.* at 13-23.

<sup>5</sup> *Id.* at 1-5.

<sup>6</sup> Doc. [1](#).

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legal standard and recommending that this Court vacate the Commissioner's denial of disability benefits and remand the case back to the ALJ for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

Specifically, the Magistrate Judge found that the ALJ failed to take the entire record of evidence into account and failed to apply the correct legal standard.<sup>7</sup>

I.

The Federal Magistrates Act requires a district court to conduct *a de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection.<sup>8</sup> The Commissioner of Social Security declined to file any objections in this case.<sup>9</sup>

Absent objection, a district court may adopt the magistrate judge's report without review.<sup>10</sup> Moreover, having conducted its own review of the parties' briefs in this case, the Court agrees with the conclusions of Magistrate Judge James R. Knepp, II.

Accordingly, the Court **ADOPTS** in whole Magistrate Judge Knepp's findings of fact and conclusions of law and incorporates them fully herein by reference. The Court thus **REMANDS** this case to the Administrative Law Judge for further proceedings.

IT IS SO ORDERED.

Dated: June 21, 2016

*s/ James S. Gwin*

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE

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<sup>7</sup> Doc. [18](#).

<sup>8</sup> [28 U.S.C. § 636\(b\)\(1\)\(C\)](#).

<sup>9</sup> Doc. [13](#).

<sup>10</sup> [Thomas v. Arn](#), 474 U.S. 140, 149 (1985).